

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-34397-2021
Date of decision: 7.4.2022

Sandeep Singh alias Seepa

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rakesh Gupta, Advocate, for the petitioner.
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.
Mr. Kuldeep Singh Siwach, Advocate for
Mr. Arjun Atri, Advocate, for respondent no.2.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.51 dated 14.6.2021, registered under Section 376 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012, at Police Station Hathur, District Ludhiana.

As per the factual matrix of the case, the present FIR was lodged by Sarabjeet Singh son of Major Singh. It was stated that he is a labourer and his wife Kulwinder Kaur died nine years ago. His elder daughter is about 16 years of age. In January 2021, his maternal mother-in-law had brought his daughter to her home at village Chak Bhai Ka for doing household work. Thereafter, he brought his daughter back to village Galib. His daughter used to remain depressed and he felt suspicion that his daughter is suffering from jaundice and got her checked privately. It was revealed that his daughter is pregnant for many months. On asking, it was disclosed by his daughter that

Sandeep Singh alias Seepa used to commit rape on her forcibly at village Chak Bhai Ka. The FIR was lodged with a prayer to take legal action against the culprit. The investigation commenced and the petitioner was arrested on 15.6.2021. The petitioner approached the learned Additional Sessions Judge (Fast Track Special Court), Ludhiana praying for the grant of bail, who after hearing the parties, declined the same vide its order dated 3.8.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been contended by learned counsel for the petitioner that the petitioner is a young boy and has been falsely implicated in this case. He submits that the false version was given in the FIR that the prosecutrix was pregnant at the time of lodging of the FIR. He has submitted that the allegations regarding the pregnancy are totally without any rhymes and reasons. Even otherwise, he has submitted that the petitioner was roped in on the basis of the false allegations. He submits that statement of the prosecutrix was recorded under Section 164 Cr.P.C., which was under the pressure of the family members wherein the prosecutrix-victim deposed against the petitioner by alleging that the petitioner committed rape upon the victim. He has submitted that the innocence of the petitioner is writ large from the very fact that the material witnesses i.e. the complainant and victim both are examined by the trial Court as PW-1 and PW-3 respectively. Learned counsel for the petitioner has invited the attention of this Court to the deposition of both these material witnesses. Both these witnesses have not supported the case of the prosecution and hence, were declared hostile. Learned counsel for the petitioner submits that there is no evidence regarding the pregnancy of the prosecutrix as well. He has submitted that the allegation of pregnancy was

false and even admitted by the prosecution. In the status report filed by the State, it has been mentioned that during investigation no evidence was found regarding the allegation of pregnancy of the victim. He submits that in the facts and circumstances of the present case, the petitioner deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. It has been submitted that the victim was less than 18 years of age and hence, her consent would carry no legal sanctity. However, she has candidly acknowledged that the victim and her father who is the author of the FIR have been examined by the trial Court and they have not supported the case of the prosecution. She has also submitted that as per the status report dated 6.4.2022, no evidence regarding the pregnancy of the prosecutrix was found as alleged.

Heard.

The petitioner is behind bars since 26.10.2021. The victim and her father, who is the author of the FIR have been examined by the trial Court as PW-1 and PW-3 and both have not supported the case of the prosecution. A perusal of their testimonies would show that the father, who has been examined as PW-1 has deposed that the accused committed no rape with his daughter and she was never sexually assaulted by the petitioner. On request of the learned PP, he was declared hostile. Similarly, the victim was examined as PW-3 and she also deposed that the accused never committed rape on her. Though the veracity of these allegations would be evaluated by the trial Court only after the conclusion of the trial. However, this Court would refrain itself from commenting on the merits of the case. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the

petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

7.4.2022

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No